

Improving People's Lives

## **1. The Issue**

- 1.1 The issue under consideration is whether Bath and North East Somerset Council ("the Authority") should make a public path creation order under section 26 of the Highways Act 1980 ("the Act") to create a public bridleway ("the Proposed BR") running from Skylark Drive to Abbotswood Close and continuing via Greenfield Road to Public Bridleway (BR) BA27/82 in Keynsham.

## **2. Recommendation**

- 2.1 That the Team Manager - Highways Maintenance and Drainage grants authorisation to seal a Public Path Creation Order to create the Proposed BR in Keynsham as detailed on the plan attached at Appendix 1 ("the Decision Plan") and in the schedule attached at Appendix 2 ("the Decision Schedule").

## **3. Financial Implications**

- 3.1 The cost of processing the creation order has been funded by agreement with Keynsham Town Council Community Infrastructure Levy, the Authority's Parks and Highways Depts and s106 finance. Section 106 finance has been provided for the acquisition, creation, design and improvement of pedestrian and cycle access routes over the land between the two development sites. This will cover the legal costs associated with creating the public bridleway rights along with the required infrastructure. The Proposed BR would become maintainable at public expense. The total budget for creation of the Proposed BR is £103k; comprising £50k from Parks, £15k from the Town Council, £25k from the K2 (The Meadows) s106 agreement and £13k from Highways' TIP programme.

## **4. Other Considerations**

- 4.1 The Human Rights Act incorporates the rights and freedoms set out in the European Convention on Human Rights into UK law. So far as it is possible all legislation must be interpreted so as to be compatible with the convention.
- 4.2 The Authority is required to consider the proposal in accordance with the principle of proportionality. The Authority will need to consider the protection of individual rights and the interests of the community at large.
- 4.3 In particular the convention rights which should be taken into account in relation to this application are Article 1 of the First Protocol (Protection of

Property), Article 6 (the right to a fair hearing) and Article 8 (Right to Respect for Family and Private Life).

4.4 The Authority will consider the effect on Climate Change.

## **5. The Legal and Policy Background**

5.1 The Authority has a discretionary power to make public path orders. When considering a proposal for a public path order, the Authority should first consider whether the proposals meet the requirements set out in the legislation (which are reproduced below).

5.2 Before making a creation order under section 26 of the Highways Act 1980 ("the Act") the Authority must be satisfied that there is a *need* for a right of way in the area. In reaching its decision, the Authority must have regard to:

- the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area,
- the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions to compensation,
- the effect which the creation of the path would have on members of the public with protected characteristics under the Equality Act 2010,
- the contents of the Rights of Way Improvement Plan,
- the needs of agriculture and forestry and the keeping and breeding of horses, and
- the desirability of conserving flora, fauna and geological and physiological features.

5.3 In addition, the Authority must consider the Authority's adopted Public Path Order Policy. The Policy sets out the criteria against which the Authority will assess the benefit of a proposed public bridleway and stresses that the Authority will seek to take a balanced view of the proposals against all the criteria as a whole.

5.4 The criteria are:

- Connectivity,
- Equalities Impact,
- Gaps and Gates,
- Gradients,
- Maintenance,
- Safety,
- Status,
- Width,
- Features of Interest,

## **6. Background**

- 6.1 Abbots Wood is an established mixed, native broadleaved woodland providing an extensive network of rides and glades to facilitate public access and take account of views. The site is flat and easy to walk but becomes seasonally waterlogged and muddy after rain which may deter some visitors. The site is open for quiet, informal recreation principally for the residents of the surrounding area, with a network of permissive paths, appropriate to the level of use, that link into the wider network of public rights of way. There is a public footpath skirting the eastern and southern sides of the wood. Approximately 0.8 ha is open space.
- 6.2 Housing development has taken place adjacent to the western and eastern sides of Abbots Wood. Part of the development negotiations included s106 agreement to provide funds towards the costs of acquisition, creation, design and improvement of pedestrian and cycle access routes over the land between what is now known as Bilbie Green, Keynsham and The Meadows, Keynsham. Progress is currently being made so that the Authority can adopt the adjoining highways at The Meadows and at Bilbie Green.
- 6.3 The Proposed BR is to commence from a junction with Skylark Drive, Bilbie Green, at grid reference ST 6448 6733 (Point A on the Decision Plan) and continuing in a generally easterly direction for approximately 268 metres to a junction with Public Footpath BA27/15 at grid reference ST 6474 6732 (point C on the Decision Plan) and turning in a generally east northeasterly direction for approximately 97 metres to grid reference ST 6483 6735 (Point E on the Decision Plan) and turning in a generally south southeasterly direction for approximately 18 metres to grid reference ST 6484 6733 (point F on the Decision Plan) and turning in a generally east northeasterly direction for approximately 72 metres to a junction with Public Bridleway BA27/82 at grid reference ST 6490 6737 (Point G on the Decision Plan).
- 6.4 The width of the proposed BR is to be 3 metres between grid references ST 6448 6733 (Point A on the Decision Plan) and ST 6490 6737 (Point G on the Decision Plan) and limitations will be included for the right of the landowner to erect and maintain bollards at grid reference ST 6449 6734 (point B on the Decision Plan) and at grid reference ST 6476 6733 (point D on the Decision Plan).

## **7. Consultations**

- 7.1 Keynsham Town Council, national and local user groups, the Ward Councillors and statutory undertakers were all consulted about the Proposed BR for a period of four weeks ("the Consultation Period"). Additionally, site notices to seek the views of members of the public were erected at point A and point E; these being the intended start and finish of the Proposed BR at the time of consultation. A site notice was also erected at the junction with Public Footpath BA27/15 (Point C). The

notice was included on the Authority's website. The adjoining houses at Abbotswood Close were sent copies of the proposed route and their comments or questions were invited.

- 7.2 One response was received to the letters to the adjoining houses requesting clarification regarding bollards and surface.
- 7.3 **Support** - One member of the public was in complete support, wanting this ever since they moved to The Meadows four years ago. A response from two people stated *'In general we are very pleased that an all weather path will be established between the Bilbie Green and Meadows developments'* (with reservations regarding width and status) and another response was *'thank you for looking into creating a connection between Bilbie Green and The Meadows'* (with reservations regarding tarmac/motorcycles). A Ward Councillor stated *'It is very much needed. Residents need to be able to access those shops and schools without getting into their cars because it's too muddy to traverse'*. The Authority's Tree Manager, Parks and Greenspaces Team said it was *'good news'*. There were 3 sets of verbal support from existing users of the public footpath at Abbots Wood.
- 7.4 **Motorcycles** - The response from a Ward Councillor was concerned with tarmac encouraging motorcycles and how this could be avoided. This was also a concern of five members of the public. *'it is highly likely that the tarmac path would be used by motorcyclists to cut between the two housing estates.'* *'There is already a problem with motorcyclists riding on the pavements on the estates and this would provide them with an easy and tempting cut through between the estates, being a hazard to pedestrians and cyclists.'* *'There is a sizeable issue with mopeds using footpaths as cut throughs around the area. As this will be a tarmac path it's a high risk that mopeds will use this as a cut through from Bilbie to The Meadows both in the day and night'*. This is addressed at paragraphs 8.15 – 8.17.
- 7.5 **Surface** – three responses from the public related to the proposed surface of the BR: This included the concern that it would encourage motorcyclists, because it would be out of character with the woodland ride and pose a threat to the habitat. *'what a shame it would be if huge strip of tarmac went through the middle of the woodland'*, *'We have serious concerns regarding the above proposal which would result in a three metre tarmac path through the middle of Abbots Wood. A tarmac path would be totally out of character with the woodland habitat and, being three metres wide, would destroy a significant area of the woodland ride habitat. There are alternative routes that cyclists and pedestrians can use to go between the two housing estates without having to tarmac through the woodland'*. *'Urge you to consider using more sympathetic substances for the path such as crushed limestone'*. The surface requirements are addressed at paragraph 8.14. The woodland ride character and habitat is addressed at paragraph 8.7.

- 7.6 **Width** – two people were concerned that the proposed 3 metre width of the BR was excessive '*whereas a 2 metre width would be both adequate and less expensive*'. This is addressed at paragraph 8.19.
- 7.7 **Designation** – Concerns from two respondents included '*the reasons for choosing a bridleway and whether the decision on type of right of way and pathwidth might be reviewed*'. Another respondent stated their '*strong objection to the above proposed bridleway. Currently, the proposed route is a much used public space and footpath in the middle of a large development and adjacent to a school and children's football pitch and in a heavily built up residential area. Therefore, to introduce a bridleway and through traffic of large horses would be to endanger the residents who currently use this space for their recreation, including dog walking, children's play and as a through way between neighbouring developments – all of which could be trampled or be subject to the unsanitary faeces of horses.*' It is not considered that equestrians will use the Proposed BR in any numbers as there is no suitable route for them to continue from either end of the Proposed BR. The status is more in keeping with use by cyclists than equestrians. There have been no reported problems with horses on the adjoining Public Bridleway BA27/82.
- 7.8 In response to the consultation, a number of statutory undertakers stated that their plant would not be affected. Some plant is affected at points A and E, but this will be protected under the New Street Works Act legislation.
- 7.9 Throughout the preparatory work for the Proposed BR, reference has been made to the Department for Transport Local Transport Note 1/20 Cycle Infrastructure Design ("the DfT Guidance"), insofar as it relates to a proposed Public Bridleway.
- 7.10 **Further Consideration after Consultation** - After consultation, it became apparent that it would be beneficial to include an extra length at the eastern end so that the Proposed BR joins with Public Bridleway BA27/82, providing continuous access for cyclists from Bilbie Green to Castle School. When the Authority adopts the highways in this area, the adopted highway will have higher rights than the proposed public bridleway.

## **8. Officer Comments**

- 8.1 **Before making a creation order the Authority must be satisfied that there is a need for a right of way in the area, taking into account the following criteria:**
- 8.2 **The extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area:** Housing has been built at both the western end of the Proposed BR at Bilbie Green and at the

eastern end of the Proposed BR at The Meadows. However, a route for cyclists from one to the other is a circuitous route. Pedestrians can walk through Abbots Wood but it is often waterlogged and isn't suitable for pedestrians with impaired mobility or for pushchairs. A route for cyclists and walkers was proposed as part of the planning process for the two developments and has been part funded by the developers. The Proposed BR would provide a significantly more direct route for cyclists and pedestrians between the two communities and this will be of particular benefit to pupils, parents and staff who are seeking to walk and cycle from Bilbie Green to Castle Primary School. The Proposed BR is approximately 453 metres in length, compared with the alternative route for cyclists using the pre-existing highway network which is approximately 1.52 kilometres to reach the same location. The Proposed BR will also be free from motorised vehicles, thus providing improved air quality and safety. The Proposed BR will also benefit users for pleasure as it will be an all-weather route through Abbots Wood. The creation of the Proposed BR would therefore significantly add to the enjoyment of a substantial section of the public and to the convenience of persons resident in the area.

- 8.3 **The effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions to compensation:** The Proposed BR is currently owned by Barrett Homes, the Authority and Taylor Wimpey. All three landowners support the creation of the Proposed BR.
- 8.4 **The effect which the creation of the path would have on members of the public with protected characteristics under the Equality Act 2010;** The surface of the Proposed Bridleway will be flat, smooth and surfaced to a standard which will make it easily accessible for members of the public with mobility or visual impairments. Bollards may be installed/retained at Point B and Point D to deter motor vehicles if required for the safety of walkers and cyclists but these would be in keeping with the principles of 'Least Restrictive Access'. The proposal therefore takes account of members of the public with Protected Characteristics. The proposals will have a neutral effect on members of the public with other protected characteristics and will be in keeping with the Authority's duties under the Equality Act.
- 8.5 **The Authority must have regard to the contents of the Rights of Way Improvement Plan:** The proposal enhances the Plan's Statement of Action, **Theme 1 – Improving Maintenance and Safety**, Paragraph 1.3 *“Deliver improvement schemes to improve network accessibility”*; **Theme 4 – Improving access for local travel**, Paragraph 4.1 *“Identify improvements to enable travel for all by foot/on bike to employment, health services, education, leisure & transport nodes”*, Paragraph 4.2 *“Identify and carry out improvements for people with mobility difficulties and visual impairments”*, Paragraph 4.3 *“Identify low maintenance gaps in the wider recreational network that will improve accessibility and connectivity”* and Paragraph 4.4 *“Seek improvements of*

*the network associated with development and funded by third parties*". The proposal will have no adverse effect on the Authority achieving other actions which are identified in the Rights of Way Improvement Plan's Statement of Action.

- 8.6 **The needs of agriculture and forestry and the keeping and breeding of horses:** The land is not used for agriculture or breeding of horses and will therefore have no adverse effect on these aspects. The Proposed BR will traverse an open ride away from the trees of Abbots Wood. The woods are managed and maintained by the Authority and the Tree Manager of the Parks and Greenspaces Team positively welcomes the proposal.
- 8.7 **The desirability of conserving flora, fauna and geological and physiological features:** Part of the Proposed BR is already tarmacked and there will therefore be no impact on these features. The Tree Manager of the Parks and Greenspaces Team is confident that the Proposed BR will have no adverse effect on the flora, fauna, geological or physiological features of Abbots Wood. Providing the opportunity for walkers and cyclists to use a tarmacked path rather than walking haphazardly over all the ground may improve the flora and fauna in the woodland ride. The width of the woodland ride varies but is up to 25 metres wide. The Proposed 3 metre-wide BR takes up only a small fraction of the width.
- 8.8 It is therefore considered that the above reflects that there is a *need* for a right of way in the area.
- 8.9 **The effect of the proposal on the additional criteria identified in the Authority's Public Path Order Policy; namely, Connectivity, Equalities Impact, Gaps and Gates, Gradients, Maintenance, Safety, Status, Width and Features of Interest:**
- 8.10 **Connectivity** – The Proposed BR will provide the public with a pleasant, accessible route on foot, horseback or cycle from Bilbie Green to The Meadows and Castle Primary School. The Proposed BR will provide a route through the woods that is accessible for users with pushchairs and mobility scooters. An equestrian or cyclist would currently have to travel on existing highways for approximately 1.52 km to get from point A to point F. The Proposed BR is approximately 453 metres avoiding motorised traffic. The Proposed BR will provide benefits for recreational or everyday cyclists. The Proposed BR will therefore enhance connectivity within the public right of way network.
- 8.11 **Equalities Impact-** see paragraph 8.4.
- 8.12 **Gaps and Gates** - see paragraph 8.4 and paragraph 8.15.
- 8.13 **Gradients** – the Proposed FP is over flat ground involving no discernible gradient.

- 8.14 **Maintenance** – A crushed stone surface has been considered but for several reasons this has not been deemed appropriate. The ground is too wet for the surface to remain intact and would therefore lead to higher maintenance costs. There is a crushed stone footpath elsewhere in the woods but this is for pedestrians only, not cyclists and is not in such a wet area as the Proposed BR. The Proposed BR will therefore be tarmacked. The length which is already tarmacked will also become the responsibility of the Authority. The creation of the Proposed BR will therefore increase the Authority's maintenance responsibility; however, the surface has been designed to limit the Authority's potential maintenance costs.
- 8.15 **Safety** – Consultation comments were concerned with the possibility that motor cyclists may use a tarmacked route. An objector suggested that pairs of staggered metal barriers should be installed to form a chicane. Signs may be installed to deter illegal use of the BR and bollards may be installed/retained at Point B and Point D to deter motor vehicles if required for the safety of walkers and cyclists.
- 8.16 The adjoining BR BA27/82 was upgraded and widened from a public footpath to a public bridleway in 2019 after a similar consultation. Two objections raised against this route referred primarily to health and safety concerns relating to cyclists and pedestrians. The Authority's Regulatory (Access) Committee debated the issue and, whilst they understood the concerns of the objectors, members felt that the proposal was a positive one which would benefit local residents. Members stated that the widening of the path would address concerns relating to potential conflict between cyclists and pedestrians. A bridleway would offer a safe route for younger children to cycle to school. On balance members felt that the benefits of the proposal outweighed any potential disadvantages and voted unanimously in favour of upgrading the route to public bridleway. No issues have been reported since this bridleway came into operation in 2019.
- 8.17 Use of the Proposed BR would be monitored and, if further control measures are considered necessary, they would be addressed once an issue becomes apparent. The Proposed BR will provide a safe route away from roads that will encourage walking and cycling in the locality. The camber will be adequate for drainage but not excessive for safety and comfort reasons.
- 8.18 **Status** – It is intended to create a Public Bridleway which can be used by pedestrians, cyclists and horseriders. This was deemed most appropriate during the planning process of the two adjacent housing developments.
- 8.19 **Width** - Consultation comments were concerned with the width being excessive. However, DfT Guidance states where pedestrians and cyclists share surfaces, sufficient width should be provided to enable users to feel safe by allowing them to see other users and to avoid each other when passing. The British Horse Society advocates



the width for new routes should be a minimum of 3 metres to allow the safe passing of equestrians/cyclists/pedestrians in a two-way situation. The Authority's Public Path Order Policy states an unenclosed bridleway should be a minimum of 3 metres wide. Although the Proposed BR will not be enclosed, the surrounding area can become seasonally waterlogged and it may not be appropriate for any class of user to leave the tarmacked route to accommodate users coming from the opposite direction. The width also needs to accommodate pushchairs and mobility scooters and provide reasonable access to all users. The width needs to be wide enough to make users feel confident that it is wide enough to share with other users. Taking all these points into account but without impacting the surrounding area excessively, it is considered that a width of 3 metres is appropriate and necessary.

**8.20 Features of Interest** – The Proposed Bridleway will take the user through a pleasant woodland ride which is not always currently accessible due to seasonal poaching and waterlogging. It will provide a country feel to the route which is close to home for those who don't wish to travel far. It will assist cyclists to accomplish a circular route (via Parkhouse Lane) avoiding roads with heavy traffic.

**8.21** A balanced assessment of all the additional criteria set out in the PPO Policy shows that the proposal would positively impact upon the public rights of way network.

## **9. Climate Change**

9.1 Public rights of way are a key resource for shifting to low-carbon, sustainable means of transport. The proposal is part of the ongoing management of the network and therefore contributes towards helping to tackle the Climate Emergency.

9.2 The Authority's Climate Emergency Strategy 2019-2030 priority no. 2 provides for decarbonising transport by enabling people to make more sustainable travel choices and reducing car use by 25% by 2030. Co-benefits include better health through improved air quality and enhanced health and wellbeing through increase in physical activity and contact with nature. The Proposed BR will assist in the Authority achieving these aims.

## **10. Risk Management**

10.1 There are no significant risks associated with creating the bridleway.

## **11. Conclusion**

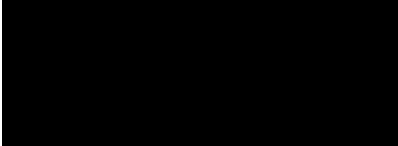
11.1 It appears that the relevant statutory tests for making such a creation Order have been met and that the proposal is in compliance with the Public Path Order Policy.

11.2 The aims of the Rights of Way Improvement Plan and Climate Emergency Strategy will be supported.

11.3 The Order should be made as proposed.

## **AUTHORISATION**

Under the authorisation granted by the Council on 21<sup>st</sup> July 2022, the Team Leader: Place Legal Services is hereby requested to seal an Order to create a public bridleway between Skylark Drive and Public Bridleway BA27/82, Keynsham as shown on the Decision Plan and detailed in the Decision Schedule and to confirm the Order if no sustained objections are received.



Dated: 09/06/2023

Craig Jackson

Team Manager - Highways Maintenance and Drainage

Enc

Appendix 1 – The Decision Plan

Appendix 2 – The Decision Schedule

## **APPENDIX 2**

### **THE DECISION SCHEDULE**

#### **PART 1 DESCRIPTION OF LAND**

A Public Bridleway commencing from a junction with Skylark Drive, Bilbie Green, at grid reference ST 6448 6733 (Point A on the Decision Plan) and continuing in a generally easterly direction for approximately 268 metres to a junction with Public Footpath BA27/15 at grid reference ST 6474 6732 (point C on the Decision Plan) and turning in a generally east northeasterly direction for approximately 97 metres to grid reference ST 6483 6735 (Point E on the Decision Plan) and turning in a generally south southeasterly direction for approximately 18 metres to grid reference ST 6484 6733 (point F on the Decision Plan) and turning in a generally east northeasterly direction for approximately 72 metres to a junction with Public Bridleway BA27/82 at grid reference ST 6490 6737 (Point G on the Decision Plan).

Width: 3 metres between grid references ST 6448 6733 (Point A on the Decision Plan) and ST 6490 6737 (Point G on the Decision Plan).

#### **PART 2 LIMITATIONS AND CONDITIONS**

The right of the landowner to erect and maintain bollards at grid reference ST 6449 6734 (point B on the Decision Plan) and at grid reference ST 6475 6733 (point D on the Decision Plan).

**Appendix 1  
Decision Plan  
Abbots Wood, Keynsham**

Public bridledway to be added A...B...C...D...E...F...G  
 Unaffected public footpath ————  
 Unaffected public bridledway ————

Scale: 1:2,000

